

Message Text

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ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 EB-07 INRE-00 IO-11 XMB-02

OPIC-03 USIE-00 SSO-00 NSCE-00 CIAE-00 INR-07 NSAE-00

/040 R

DRAFTED BY L:MBFELDMAN

APPROVED BY L:MBFELDMAN

EB/IFD/OIA:WWITTING

TREASURY:JLANGE

IO/CMD: WWOODBURY

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FM SECSTATE WASHDC

TO AMEMBASSY LIMA NIACT IMMEDIATE

C O N F I D E N T I A L STATE 058468

E.O. 11652: GDS

TAGS: OCON, EFIN, ECOSOC, PE

SUBJECT: UN COMMISSION ON TRANSNATIONAL CORPORATIONS

REFS: (A) LIMA 2299; (B) STATE 57234

1. REF. B PROVIDES WASHINGTON COMMENTS ON G-77 PROPOSALS FOR WORK ON CODE OF CONDUCT WHICH ARE CARRIED FORWARD IN COMPREHENSIVE G-77 DOCUMENT REPORTED REF A. WE HAVE A NUMBER OF SERIOUS CONCERNS ABOUT OTHER ASPECTS OF THE G-77 DRAFT REPORT. OUR PRINCIPAL, INITIAL CONCERNS SET FORTH BELOW.

2. WE WOULD NOT SUPPORT SUBSTANTIAL EXPANSION OF THE BUDGET FOR THE CENTER AND HAVE PARTICULAR DIFFICULTY WITH PROPOSAL FOR COMPUTER FACILITIES FOR THE PURPOSES STATED IN PARAGRAPH 20, REF. A.

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3. WOULD APPRECIATE CLARIFICATION OF WHAT IS MEANT BY

"ACTION-ORIENTED" PAPER IN PARAGRAPH 14(II). WHILE WE HAVE NO OBJECTION IN PRINCIPLE TO INCLUDING CORRUPT PRACTICES WITHIN SCOPE OF SECRETARIAT PAPER OR IN COMMISSION RESEARCH AS CONTEMPLATED IN PARAGRAPH 26 (REF. A), WE DO NOT WISH TO DIVIDE THE WORK ON THIS SUBJECT AND SEE LITTLE POINT IN THE COMMISSION'S PURSUING THE MATTER IF IT CONSTRUES ITS MANDATE TO EXCLUDE GOVERNMENT PROCUREMENT FROM FOREIGN COMPANIES. THEREFORE, WE BELIEVE REPORT OF COMMISSION SHOULD INCLUDE APPROPRIATE ENDORSEMENT OF WORK ON INTERNATIONAL AGREEMENT ON BRIBERY AND WORK OF THE CENTER SHOULD BE ORIENTED TO SUPPORT THAT ACTIVITY. IN FURTHER SUPPORT OF U.S. POSITION THAT EXISTING MANDATE OF COMMISSION IS SUFFICIENTLY BROAD, YOU CAN POINT OUT THAT GREAT BULK OF COVERED TRANSACTIONS WOULD INVOLVE TNC'S. COMMISSION IN DEVELOPING MEASURES TO DEAL WITH TNC PROBLEMS IS NOT REQUIRED TO CONFINE MEASURES OR TEXTS IT RECOMMENDS TO TNC'S ALONE WHERE BROADER COVERAGE IS NECESSARY TO DEAL EFFECTIVELY WITH TNC'S. PENDING FURTHER INSTRUCTIONS YOU SHOULD RESERVE POSITION AS TO WHETHER USG IS PREPARED TO SUPPORT WORK ON CORRUPT PRACTICES BY COMMISSION OR CENTER IF CONSENSUS IS THAT COMMISSION LACKS AUTHORITY TO ORIENT ITS WORK TO SUPPORT AGREEMENT ON GENERAL LINES PROPOSED BY USA.

4. WE ARE GREATLY CONCERNED AT PROPOSALS FOR CENTER TO COLLECT CONFIDENTIAL INFORMATION ON INDIVIDUAL ENTERPRISES AS CONTEMPLATED IN DOCUMENT E/C. 10/11 ENDORSED IN PARA. 19, REF. A AND AS FURTHER ELABORATED IN PARAGRAPHS 21-24, REF. A. WE ARE PARTICULARLY CONCERNED AT PROPOSAL THAT CENTER UNDERTAKE TO COLLECT ENTERPRISE DATA ON A COUNTRY BASIS ON THE ITEMS ENUMERATED IN PARA. 22(B) EITHER DIRECTLY FROM ENTERPRISES OR FROM GOVERNMENTS AS CONTEMPLATED IN PARAGRAPH 24. WE ARE ALSO CONCERNED ABOUT FOCUS OF PARAGRAPH 21 ON "PROFILES ON MAJOR" TNC'S.

5. IT IS CLEAR THAT IT WILL TAKE SOME TIME, CONSIDERABLE STUDY AND NEGOTIATION TO ESTABLISH AGREED TERMS OF REFERENCE FOR THE CENTER'S HANDLING OF ENTERPRISE DATA.
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CENTER'S MANDATE WILL BE DEPENDENT IN SIGNIFICANT PART ON RESOLUTION OF SUBSTANTIVE ISSUES INCLUDING GUIDELINES FOR PUBLIC DISCLOSURE BY ENTERPRISES, AGREEMENT ON UNIFORM ACCOUNTING STANDARDS, AND SOME MEASURE OF UNDERSTANDING ON THE DELICATE QUESTION OF INTERGOVERNMENTAL EXCHANGES OF CONFIDENTIAL CORPORATE INFORMATION. THEREFORE, CENTER SHOULD CONCENTRATE ITS INITIAL EFFORTS ON SURVEYING AVAILABLE SOURCES OF INFORMATION AND DEVELOPING SYSTEMS

FOR COLLECTING AND MANAGING INFORMATION THAT IS AVAILABLE FROM PUBLIC SOURCES. WE SEE LITTLE ROOM FOR COMPROMISE ON THIS ISSUE. THEREFORE, BEST SOLUTION MIGHT BE TO REFER UNDERLYING SUBSTANTIVE AND TECHNICAL ISSUES TO AN APPROPRIATE EXPERTS GROUP. HAS SAHLGREN BROACHED AT LIMA HIS PROPOSAL FOR CREATION OF SUCH A GROUP AT THE CENTER?

6. WE MAY HAVE FURTHER COMMENTS ON SPECIFIC SUBJECTS FOR IN-DEPTH STUDY SUGGESTED IN PARAGRAPH 28, REF. A, BUT WE STRONGLY OBJECT TO PARAGRAPH (VI) WHICH IMPLIES DISCRIMINATORY TREATMENT AND TO PARAGRAPH 1 WHICH FOCUSES NARROWLY ON BALANCE OF PAYMENTS IMPACTS WITHOUT ATTEMPTING TO PLACE SUCH IMPACTS IN A BROADER CONTEXT INCLUDING SUCH MATTERS AS GROWTH, EMPLOYMENT, TAXES, ETC.

7. IN THE WORK ON DEFINITION, PARAGRAPH 32, WE SHOULD AVOID REFERENCE TO "FIVE LEADING TNC'S IN EACH INDUSTRIAL SECTOR."

8. WE ALSO WOULD WISH TO SEE CENTER'S ACTIVITIES AS REGARDS INFORMATION AND RESEARCH FOCUS ON AREAS OF CONCERN TO INDUSTRIAL COUNTRIES AS WELL AS DEVELOPING COUNTRIES AND RECOMMEND THAT YOU DEVELOP PROPOSALS FOR A MORE BALANCED LIST SIMILAR TO THAT IN PARA. 53 OF THE REPORT OF THE COMMISSION'S FIRST SESSION.

9. OUR GENERAL VIEWS ON PARA. 29-30, REF. A ARE CONTAINED IN POSITION PAPER FOR AGENDA ITEM 4(E). KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMMITTEE MEETINGS, MULTINATIONAL CORPORATIONS, MEETING PROCEEDINGS, FOREIGN POLICY POSITION
Control Number: n/a
Copy: SINGLE
Draft Date: 10 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: powellba
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE058468
Document Source: CORE
Document Unique ID: 00
Drafter: MBFELDMAN
Enclosure: n/a
Executive Order: GS
Errors: I
Film Number: D760091-0392
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760374/aaaacnim.tel
Line Count: 144
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 LIMA 2299, 76 STATE 57234
Review Action: RELEASED, APPROVED
Review Authority: powellba
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by ShawDG>; APPROVED <28 OCT 2004 by powellba>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: UN COMMISSION ON TRANSNATIONAL CORPORATIONS
TAGS: OCON, EFIN, PE, US, ECOSOC
To: LIMA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006